

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
)  
Replacement of Part 90 by Part 88 )  
to Revise the Private Land Mobile )  
Radio Services and Modify the )  
Policies Governing Them )  
)  
and )  
)  
Examination of Exclusivity and )  
Frequency Assignment Policies of )  
the Private Land Mobile Radio Services )

PR Docket No. 92-235

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**REPLY COMMENTS OF UNITED PARCEL SERVICE OF AMERICA, INC.**

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## SUMMARY

United Parcel Service of America, Inc. (UPS) relies extensively on private land mobile radio (PLMR) communications in carrying out its package delivery services. Because of the crucial role effective land mobile communications systems play in many aspects of its operations, UPS strongly supports the Commission's ongoing effort to promote more efficient use of scarce PLMR spectrum.

As discussed in the following comments, UPS believes, however, that the Commission will ensure the continued effectiveness of PLMR communications only if it takes steps to guarantee the viability of incumbents' existing systems -- particularly those on the offset channels in the 450 MHz band -- during the transition to narrower channel spacings. In addition, for reasons set forth in its comments, UPS opposes user fees and competitive bidding as methods for achieving greater efficiency, and is concerned these suggestions and the Commission's related proposal to allow PLMR licensees to resell excess capacity will not accomplish their purpose and will "commercialize" private radio spectrum to the detriment of private users.

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**REPLY COMMENTS OF UNITED PARCEL SERVICE OF AMERICA, INC.**

United Parcel Service of America, Inc. (UPS) hereby respectfully submits these Reply Comments in response to the issues raised regarding the *Further Notice of Proposed Rule Making* adopted by the Commission in the above-captioned docket on June 15, 1995.<sup>1</sup>

UPS supports the Commission's goal of promoting more efficient use of the private land mobile radio (PLMR) spectrum and concurs with the Commission's conclusion that greater efficiency will ultimately result in much needed increases in capacity and improvements in service quality. As detailed below, however, UPS urges the Commission to take steps to ensure the viability of incumbents' existing systems --

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<sup>1</sup> Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services, 10 FCC Rcd 10076 (1995) [hereinafter *Further Notice*].

particularly those on the offset channels in the 450 MHz band -- during the transition to narrower channel spacings. In addition, UPS opposes user fees and competitive bidding as methods for achieving greater efficiency, and is concerned these suggestions and the Commission's related proposal to allow PLMR licensees to resell excess capacity will not accomplish their purpose and will effectively "commercialize" private radio spectrum to the detriment of private users.

## **I. Background**

UPS is the world's largest package delivery company, employing more than 335,000 people worldwide and delivering more than 12 million packages daily. UPS operates from approximately 2400 facilities, with a delivery fleet of 130,000 vehicles and nearly 200 jet aircraft. The company offers service to more than 200 countries and territories, including every address in the United States. Approximately 1.3 million regular customers rely on UPS for daily pickup of their important packages and documents.

Because UPS relies extensively on private land mobile communications in carrying out its operations, the company has been an active participant throughout the course of this proceeding and is acutely interested in any FCC action designed to alleviate congestion and improve efficiency on crowded PLMR bands. For this same reason, UPS was actively involved in the 220-222 MHz proceeding and, through its II

Morrow, Inc., subsidiary, developed type-accepted 5 kHz narrowband data radios and system technology for the 220-222 MHz band.

Private radio systems are essential to the safe and efficient conduct of many critical operations within UPS, including internal package tracking, sort management and aircraft servicing. For example, at UPS hub facilities, which are a crucial component of virtually every UPS service offering, private radio is used to direct the movement and staging of arriving and departing trailers, to coordinate the loading and unloading of trailers to and from railroad flat cars, and to manage package sorting and processing. In addition, as a major air carrier, UPS utilizes air terminal use (ATU) and other PLMR frequencies to coordinate aircraft ramp operations such as fueling, de-icing, maintenance, aircraft weight and balance, loading and unloading, marshaling, pushback, and ramp security, among other things.

## **II. UPS Supports the Goal of More Efficient Use of Private Radio Spectrum.**

The Commission has recognized that "the PLMR bands have become highly congested" in recent years.<sup>2</sup> The Business Radio Service -- the most congested of the existing PLMR service pools -- now averages more than 21,000 transmitters per

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<sup>2</sup> *Further Notice*, 10 FCC Rcd at 10126.

frequency.<sup>3</sup> In many areas of the country, interference resulting from this congestion has already reached an unacceptable level.

With a large and steadily growing requirement for private radio systems in support of most aspects of its core business, UPS applauds the FCC's efforts to explore "methods to promote more efficient and effective use of the PLMR bands below 800 MHz."<sup>4</sup> UPS also agrees with the Commission's conclusion that "the user community will ultimately benefit from more efficient use of spectrum through the availability of more channels and better quality service."<sup>5</sup> More importantly, these benefits will directly translate into improved productivity and increased safety.

Fundamental to the implementation of any new business radio system is the determination of whether that system should be commercial or private. With few exceptions, UPS has chosen to use private as opposed to commercial radio systems to meet the company's communications requirements.<sup>6</sup> This philosophy is based on the

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<sup>3</sup> See Joint Pool Consolidation Proposal of the Personal Communications Industry Association, Industrial Telecommunications Association, Alliance of Motion Picture and Television Producers, Newspaper Association of America, Telephone Maintenance Frequency Advisory Committee, PR Docket No. 92-235, at 5 (filed Nov. 20, 1995).

<sup>4</sup> *Further Notice*, 10 FCC Rcd at 10126.

<sup>5</sup> *Id.*

<sup>6</sup> After spending millions of dollars to develop a nationwide package tracking system intended to operate on 5 kHz narrowband channels in the 220 MHz PLMR band and facing intense competitive business pressures, UPS was forced by regulatory delays to resort instead to a commercial cellular-based system to provide this service to its customers. Today, the assignment of nationwide licenses in the 220 MHz  
(continued...)

fact that, in nearly every case, commercial service providers are unable to offer the level of service necessary to support critical business operations.

For example, the technical requirements that accompany a particular business's communications needs are often unique in respects that make commercial offerings unsuitable. Limited geographic coverage requirements, power restrictions, unusual system configurations, the need for instantaneous, reliable communications, and operations characterized by periods of intense peak activity render common carrier offerings, which are typically tailored toward wide-area, lower-grade services, unsuitable.<sup>7</sup> In addition, in UPS's view, far greater risks are often created by relying on external vendors for critical communications services. An external vendor could go out of business, decide to discontinue unprofitable services, or sell its frequencies without advance warning, leaving end users with poor service quality or no service at all.<sup>8</sup>

By contrast, as a private radio licensee, UPS can custom design each system to provide the necessary coverage area, throughput, reliability, and other service

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<sup>6</sup>(...continued)  
band continues to be delayed, and still no viable option exists for operating such a system using PLMR frequencies.

<sup>7</sup> See Comments of Aeronautical Radio, Inc., PR Docket No. 92-235, at 8-9 (filed Nov. 20, 1995).

<sup>8</sup> For example, in one major metropolitan area, UPS uses a commercial trunked SMR operator that, shortly after UPS subscribed for service, reduced its system from ten channels to five channels. As a result, UPS faces a busy signal level of 45 percent in this market during certain periods.



requirements demanded by each of its applications. Significantly, although it is true that the decision to choose private over commercial systems can be supported by a strict cost-based analysis in most cases, such an analysis is meaningless if commercial providers simply cannot render the required level of service.

In UPS's view, it is absolutely critical that private radio be preserved as an option for meeting critical business communications needs. Businesses must continue to have the flexibility to choose between commercial and private radio options on a case-by-case basis and must continue being able to premise their decision on sound business judgment.

**III. The Continued Viability of Existing Operations on the Offset Channels in the 450-470 MHz Band Must Be Ensured During the Period of Transition to Narrower Channel Spacings.**

UPS relies extensively on offset channels in the 450-470 MHz band to support essential communications at the company's hubs. Given the vital role of private radio communications in UPS's operations as well as those of other PLMR licensees, the Commission must ensure that the transition to narrower channel spacings will not injure the effective operation of incumbent systems on the 450-470 MHz offset channels. To help ensure a smooth and effective transition, UPS generally supports the approach advanced by the Land Mobile Communications Council (LMCC) in its comments, with

some modifications.<sup>9</sup> In particular, LMCC urges the Commission to allow primary channel incumbents in the 421-430 MHz, 450-470 MHz, and 470-512 MHz bands to be allowed to claim the adjacent upper (high side) 12.5 kHz offset channel or to retain their current claim to 25 kHz bandwidth if they convert to 12.5 kHz operation or a spectral equivalent technology employing 25 kHz bandwidth.<sup>10</sup> UPS supports this proposal, except that it does not agree that incumbents on primary channels should automatically be given priority over existing low power users on the adjacent 12.5 kHz channels.

While UPS also appreciates the concerns of Hewlett-Packard Company with regard to the impact of the transition on low power channels, UPS is concerned about the suggestion in Hewlett Packard's comments urging the Commission to set aside a full 2.5 MHz of scarce PLMR spectrum for very-low-power (less than 120 milliwatts) operations.<sup>11</sup> UPS is not convinced that sufficient justification exists for a spectrum set-aside of this quantity. UPS does, however, appreciate the need for an effective

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<sup>9</sup> Comments of the Land Mobile Communications Council, PR Docket No. 92-235, (filed Nov. 20, 1995).

<sup>10</sup> *Id.* at 13.

<sup>11</sup> See Letter from Hewlett-Packard Company to William F. Caton, Acting Secretary, Federal Communications Commission (dated Nov. 20, 1995).

spectrum resource for medical telemetry operations, and urges the Commission to continue its ongoing effort to find a suitable location for medical telemetry devices.<sup>12</sup>

**IV. UPS Generally Supports the Two Pool Approach Advocated by Various Commenters, Provided That the "Footnoted" Status of Small Blocks of Frequencies for Air Terminal Use and Other Specialized Applications Is Retained.**

In their joint comments, the Personal Communications Industry Association (PCIA), the Industrial Telecommunications Association (ITA), the Alliance of Motion Picture and Television Producers (AMPTP), the Newspaper Association of America (NAA), and the Telephone Maintenance Frequency Advisory Committee (TELFAC) (collectively referred to as the "Joint Commenters") urge the Commission to consolidate the Part 90 service pools below 800 MHz into two pools, one for Public Safety and another for all remaining Part 90 eligibles.<sup>13</sup> UPS supports this proposal. It is crucial, however, that the Commission also adopt these commenters' suggestion

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<sup>12</sup> The Commission recently proposed to amend Part 15 of the Rules to expand the available frequencies and increase the permitted power for unlicensed biomedical telemetry devices operating on VHF and UHF television channels. *See* News Release, Report No. DC 95-139 (released Dec. 8, 1995). This proposal, which would permit unlicensed biomedical telemetry devices to operate with 5 milliwatts of power on VHF channels 7-13 and all UHF channels, provided that no interference is caused to existing or future television transmissions, would afford medical telemetry devices access to a significant quantity of spectrum.

<sup>13</sup> *See* Joint Pool Consolidation Proposal of the Personal Communications Industry Association, Industrial Telecommunications Association, Alliance of Motion Picture and Television Producers, Newspaper Association of America, Telephone Maintenance Frequency Advisory Committee, PR Docket No. 92-235 (filed Nov. 20, 1995).

that the present "footnoted" frequencies be retained for public service users, including slave locomotive control and fixed point-to-multipoint telemetry frequencies used by the railroads, air terminal use (ATU) frequencies used by the airlines in and around airports, oil spill clean up frequencies used by petroleum companies, and the emergency response frequencies used by a variety of industries.<sup>14</sup> As noted by the Joint Commenters, the footnoted frequencies were allocated to satisfy particular users' needs for immediate access to a specified group of channels. The footnoted frequencies are generally related to safety and emergency response activities and should be retained for these purposes.

In this same connection, UPS agrees with ARINC's suggestion that the most effective use of the ATU channels will result if the Commission allows air carriers to control the ATU channels and retains the shared exclusivity status of the ATU frequencies in and around airports.<sup>15</sup> UPS also agrees with ARINC and the air transport industry's request that ARINC be designated as exclusive coordinator of the ATU channels regardless of actions taken by the Commission with regard to competitive coordination of other areas of the PLMR bands. UPS generally concurs with ARINC's suggestion that effective and efficient use of the ATU channels necessitates designation of a frequency coordinator familiar with the unique

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<sup>14</sup> *See id.* at 6.

<sup>15</sup> *See Comments of Aeronautical Radio, Inc.*, PR Docket No. 92-235, at 5-6 (filed Nov. 20, 1995).

requirements of ATU spectrum users. ARINC is the obvious choice for this purpose because it has previously served as ATU coordinator and has remained involved in the provision of ATU communications.

**V. User Fees, Auctions, and Resale of Excess Capacity in the PLMR Bands Will Not Promote Efficient Use of PLMR Spectrum and Will Disserve the Public Interest by Commercializing Private Spectrum.**

In the *Further Notice*, the Commission suggested several alternative proposals for increasing PLMR licensees' incentives to use spectrum efficiently. In particular, the Commission proposed to allow licensees to obtain shared exclusivity with the right to lease excess capacity. In addition, as alternatives to or in conjunction with shared exclusivity, the Commission proposed to implement user fees, to issue future licenses through competitive bidding, or to use some combination of all three approaches.<sup>16</sup>

The vast majority of commenters agrees that the Commission's proposed market based incentives are unnecessary and will alter the nature of PLMR operations by squeezing out private, internal systems in favor of commercial offerings.<sup>17</sup> UPS

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<sup>16</sup> *Further Notice*, 10 FCC Rcd at 10129-41.

<sup>17</sup> See, e.g., Comments of Aeronautical Radio, Inc., PR Docket No. 92-235, at 12 (filed Nov. 20, 1995); Comments of the Alarm Industry Communications Committee, PR Docket No. 92-235, at 3-8 (filed Nov. 20, 1995); Comments of the American Automobile Association, PR Docket No. 92-235, at 4-8 (filed Nov. 20, 1995); Comments of the American Petroleum Institute, PR Docket No. 92-235, at 6-7, 12-13 (filed Nov. 20, 1995); Comments of the American Trucking Association, PR Docket No. 92-235, at 4-12 (filed Nov. 20, 1995); Comments of Boeing Corporation, PR Docket No. 92-235, at 3-13 (filed Nov. 20, 1995); Comments of Forest Industries (continued...)

agrees with this assessment. In UPS's experience, the shortage of available PLMR spectrum has already prompted companies with extensive communications requirements to use efficient technologies simply in order to satisfy their own needs. For example, at its air hub facilities, UPS has developed an Air Hub Control System (AHCS) that operates at 19.2 kbps in 25 kHz channels in the 450 MHz band, providing real-time package tracking capabilities. Significantly, UPS's AHCS system operates in accordance with the efficiency standards prescribed in PR Docket No. 92-235 without any added market based incentives or other regulatory inducements.<sup>18</sup>

Other commenters have similarly indicated that their communications needs have prompted them to pursue the most efficacious use of available spectrum.<sup>19</sup> This being the case, there is no need for added "incentives" such as user fees, auctions, and resale of excess capacity. Moreover, these proposals pose a risk of hindering effective fulfillment of private communications needs by increasing the possibility that private

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<sup>17</sup>(...continued)

Telecommunications, PR Docket No. 92-235, at 6-15 (filed Nov. 20, 1995); Comments of the Land Mobile Communications Council, PR Docket No. 92-235, at 15-19 (filed Nov. 20, 1995); Comments of Motorola Inc., PR Docket No. 92-235, at 9-12 (filed Nov. 20, 1995); Comments of Union Pacific Railroad Company and Missouri Pacific Railroad Company, PR Docket No. 92-235, at 12-14 (filed Nov. 20, 1995); Comments of the United and Central Telephone Companies, PR Docket No. 92-235, at 4-6 (filed Nov. 20, 1995).

<sup>18</sup> See *Further Notice*, 10 FCC Rcd at 10122.

<sup>19</sup> See Comments of Aeronautical Radio, Inc., PR Docket No. 92-235, at 12 (filed Nov. 20, 1995).

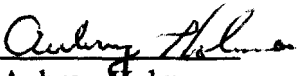
communications requirements will have to be satisfied by less effective common carrier offerings.

## **VI. Conclusion**

As discussed above, UPS supports the Commission's efforts to promote efficient use of PLMR spectrum. UPS is heavily dependent on land mobile communications to help facilitate the effective operation of its package delivery service and to ensure the safety of its employees. In UPS's view, however, efficient use of PLMR spectrum will be maximized if the Commission adopts final rules and policies consistent with the recommendations set forth herein.

Respectfully submitted,

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Dated: January 11, 1996